

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

Big Cat Rescue Corp., a Florida)
not-for-profit corporation,)
)
Plaintiff,)
)
v.) Case No. CIV-2016-0155-SLP
)
Shirley M. Schreibvogel,)
an individual, and)
Greater Wynnewood Development)
Group, LLC,)
)
Defendants.)

AFFIDAVIT OF HEATHER L. HINTZ

STATE OF OKLAHOMA)
)
) ss.
COUNTY OF OKLAHOMA)

Heather L. Hintz, being of legal age and sound mind, state the following upon oath:

1. The facts set forth in this Affidavit are based upon my personal knowledge.
2. I am an attorney licensed to practice law in the State of Oklahoma. I am a shareholder and director in the law firm of Phillips Murrah P.C. (“Phillips Murrah”), and am the attorney principally responsible for managing the litigation in the captioned case on behalf of Plaintiff Big Cat Rescue Corp. (“Big Cat Rescue”) and party in interest 25803 North Country Road 3250 LLC (“25803 LLC”). I submit this Affidavit pursuant to the Court’s Order entered August 24, 2020 [Doc. 179], granting in part the Emergency Application for a Show Cause Order filed in this action on July 14, 2020 by BCR and 25803 LLC [Doc. 158] (the “Application”), and BCR’s request for an award of its

EXHIBIT 1

reasonable attorney fees and expenses as a compensatory contempt award, as set out in the Motion filed this same date.

3. Phillips Murrah has provided professional services on behalf of plaintiff in this case since February 2016. I am personally familiar with the services rendered by the Firm's attorneys and staff in this matter. I make the following statements in support of the Application and request that Big Cat Rescue and 25803 LLC be awarded contempt damages in the form of their reasonable attorneys' fees and expenses incurred in establishing contempt of Court with regard to the failure of defendant Greater Wynnewood Development Group, LLC ("GWDG") and its principal, Jeffrey Lee Lowe, to comply with the Court's Order [Doc. 152] (the "Order") entered in this case on June 1, 2020, and in gaining compliance with the Order.

4. Under my supervision, there has been a thorough review of the billing records related to fees, costs, and expenses in this litigation related to this contempt matter. The information contained in this Affidavit has been prepared from that review and is true and correct to the best of my knowledge, information and belief.

5. The expenses, and attorneys' fees incurred in attempting to gain compliance with the Order, are necessary and reasonable, in my professional opinion. In addition to the time expended in researching applicable legal authorities and drafting the Application, and in trying to gain GWDG's compliance with the Order both before and after the Application was filed, counsel prepared for the hearing. That preparation included preparing exhibits and a witness for the show cause hearing, and seeking a continuance of the hearing date when Mr. Lowe's counsel unexpectedly contended on the eve of the first

scheduled hearing that a health issue precluded his attendance. Big Cat Rescue also incurred expenses for the private process server who served Mr. Lowe with the show cause order entered by the Court July 15, 2020 [Doc. 159], and expenses incurred related to the a witness who appeared at the contempt hearing ready to testify as to the finances of GWDG concerning its ability to comply with the Order.

6. As established in more detail in the redacted billing statements attached as Ex. 1-1, Movants seek recovery of attorneys' and legal assistant fees related to the contempt and efforts to gain compliance with the Order, incurred in the following months and amounts: June 2020 (2.5 hours totaling \$712.50), July 2020 (19.6 hours totaling \$5,463.50), and August 2020 (13.3 hours totaling \$3,790.50), in the total amount of \$9,966.50.

7. The detailed, redacted billing statements attached as Ex.1-1 are, to the best of my knowledge and belief, true and correct copies of information contained in contemporaneous billing records maintained by Phillips Murrah (pursuant to LCvR7.1(n), pages which do not reflect fees or costs being sought have been omitted from the attachment). The information contained in these documents was recorded at or near the time of the events they reflect by, or from information transmitted by, a person with knowledge. Further, the information was kept in the course of the Firm's regularly conducted business. The time records have been redacted where the entries reflect privileged attorney-client communications and attorney work product, and with regard to fee and expense entries for which an award is not being sought. Certain daily time records which contained both entries for which fees are sought and for which no fees are sought

have been redacted appropriately and reflect downward revised fee amounts which were determined based on the knowledge of the billing attorneys.

8. The undersigned carefully reviewed the invoices to remove any time billed for work that counsel believes would have been spent regardless of the need to seek contempt, such as drafting the indemnification agreement initially required of GWDG by the Court in its June 1, 2020 Order. As GWDG did not obtain the insurance required in the June 1 Order, Mr. Lowe agreed to execute a personal indemnity agreement to attempt to address the damage suffered by Big Cat Rescue and 25803 LLC by the lack of required insurance between June 18 and August 5, 2020 – the time devoted to drafting this supplemental indemnification agreement is included in the invoices attached to this Affidavit, as it was an expense that would not have been incurred absent the contempt. Similarly, once it was determined that the August 5, 2020 insurance policy had significant coverage deficiencies, the supplemental personal indemnification agreement was amended to extend through October 1, which time expenditure was also included.

9. With regard to the fees at issue in this Application, Phillips Murrah billed attorneys' fees at the hourly rate of \$285 for shareholder/director attorneys and \$110 for legal assistant work. These rates are reasonable and customary for the Oklahoma market, and it is my understanding and belief that they are comparable to or below rates charged in Oklahoma in like actions. In consideration of Big Cat Rescue's status as a non-profit, the undersigned bills at an hourly rate here below that regularly billed to commercial clients.

10. As noted above, in addition to attorney and legal assistant fees, Big Cat Rescue seeks \$338.00 in expenses necessitated by the need to engage a private process

server to serve GWDG and Mr. Lowe with the July 15, 2020 Order Setting Show Cause Hearing. *See* Ex. 1-2. This charge is reasonable as prompt service was required by the Show Cause Order. *See* Order [Doc.159] at 2. Neither Movant seeks reimbursement for copy costs associated with the Application and hearing. Further, as inability to comply with an order may be asserted as a defense to contempt, witness Grady Conrad was engaged to testify at the hearing, if needed, as to GWDG's financial ability to comply with the Order. Movants accordingly seek \$942.80, the cost of engaging that necessary witness, as established in Ex.1-3.

11. The fees and costs incurred and billed, as sought in the Motion, were necessary and reasonable considering the nature of the contempt issue before the Court, the obstacles with which counsel was presented in gaining compliance, and the result obtained, in the belief of undersigned counsel. In that regard (as set out in more detail in the Application), GWDG failed to comply with the Order or even acknowledge its entry to undersigned counsel for Movants. The undersigned wrote to Mr. Lowe expressing concern over that noncompliance and lack of contact, and requesting a response detailing compliance no later than June 25, 2020 (the "Letter"). *See* Application [Doc. 158] at ¶ 6, and Letter [Doc. 158-1].

12. The only communication received in response to the Letter was a July 7 email from out-of-state attorney Walter Mosley, indicating generally he had been engaged by Mr. Lowe and would respond no later than July 10 with regard to the failure of compliance issues addressed in the Letter. *See* [Doc. 158] at ¶ 8. The undersigned in turn responded to Mr. Mosley by email on July 7, explaining why time was of the essence in gaining full

compliance with the Order “[g]iven the urgent nature of the insurance and indemnification requirements, among others,” and that she had been instructed to seek the assistance of the Court in gaining compliance with the Order, if necessary.

13. However, despite being advised of the urgency of the matter and having been warned that the assistance of the Court would be sought if necessary to gain compliance, Mr. Mosley did not reply by July 10 or otherwise follow up in any manner. After waiting a full week from Mr. Mosley’s initial July 7 email and receiving no further communication of any kind, the Application was filed July 14.

14. The fees and expenses submitted to the Court, as reflected on the records attached to this Affidavit, are for fees and expenses actually billed. The August 2020 invoice has not yet been mailed, but the time and expenses relative to the contempt matter has been reviewed, and are final figures.

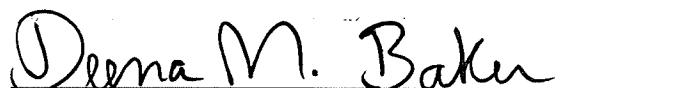
15. In sum, plaintiff seeks an award of contempt related compensatory damages composed of attorney and legal assistant fees actually incurred in the amount of \$9,966.50 incurred in June-August 2020, and contempt related expenses actually incurred in the amount of \$1,280.80, for a total of \$11,247.50.

FURTHER AFFIANT SAYETH NOT.



Heather L. Hintz
Phillips Murrah P.C.

Subscribed and sworn to before me 14th day of September, 2020, by Heather L. Hintz.



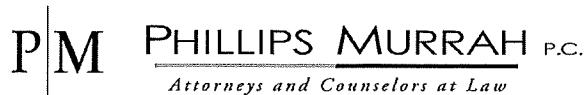
Debra M. Baker

(SEAL)



Notary Public

My Commission Expires: _____
My Commission No. _____



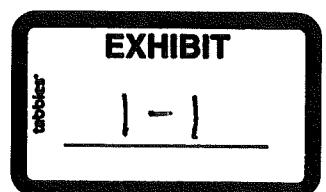
Corporate Tower | Thirteenth Floor | 101 N. Robinson
Oklahoma City, Oklahoma | 73102 405.235.4100 | Fax 405.235.4133
www.phillipsmurrah.com | Tax ID #73-1288529

INVOICE

Big Cat Rescue Corp.
12802 Easy Street
Tampa, FL 33625

Invoice Date: June 30, 2020
Invoice No.
Account No.

RE: Big Cat Rescue vs.
Big Cat Rescue Entertainment Group, Inc., et al;
USDC WD Oklahoma; Case #5:13-FJ-1.



June 2020

Big Cat Rescue Corp.

(CONTINUED)
06/30/2020

ACCOUNT NO:

Big Cat Rescue vs.
Big Cat Rescue Entertainment Group, Inc., et al;
USDC WD Oklahoma; Case #5:13-FJ-1.

HOURS

HLH Draft letter to Lowe regarding judgment and order; transmit
to for review with draft notice.

2.50 *y 285 =*
712.50

06/23/2020

Big Cat Rescue Corp.
12802 Easy Street
Tampa, FL 33625

Invoice Date: July 31, 2020
Invoice No.
Account No.

RE: Big Cat Rescue vs.
Big Cat Rescue Entertainment Group, Inc., et al;
USDC WD Oklahoma; Case #5:13-FJ-1.

			HOURS
07/02/2020	HLH	Communicate regarding failure of J. Lowe or GWDG to respond to requirements of Court's June 1 order and judgment, and harm associated with the failure to insure or indemnify, due to reported conduct and conditions within the animal park, and what might be necessary to gain compliance.	0.30 X 285 = 85.50
07/05/2020	HLH	Consider issues related to non-compliance with June 1, 2020 Order and Judgment, and gaining compliance with same and review information regarding reports of lack of care and unsafe conditions at the animal park, in considering gaining compliance with Court's Order and Judgment.	0.50 X 285 = 142.50
07/06/2020	HLH	Communicate and receive and review information that might be included in potential contempt filing (.2); further work on draft contempt motion (1.1);	

1.3
4.80 X 285 = 370.50

July 2020

Big Cat Rescue Corp.

(CONTINUED)
07/31/2020

ACCOUNT NO:

Big Cat Rescue vs.
 Big Cat Rescue Entertainment Group, Inc., et al;
 USDC WD Oklahoma; Case #5:13-FJ-1.

HOURS

07/07/2020 HLH

confer
 regarding email from W. Mosley, and draft email to
 respond to W. Mosley, and send same. (1.4);

$$\begin{aligned} & 4.60 \times 2.85 = \\ & 399.00 \end{aligned}$$

07/13/2020 HLH Follow up on getting exhibits prepared for contempt filing.

$$0.50 \times 2.85 = 142.50$$

07/14/2020 HLH Revise and file application for contempt.

$$3.40 \times 2.85 = 969.00$$

07/15/2020 HLH Receive and review court's order setting contempt hearing (.1); provide copies to W. Mosley as requested, together with explanatory email (.7);

communicate regarding court's
 order on contempt and W. Mosley's response (.5).

$$\begin{aligned} & 2.10 \times 3 \times 2.85 = \\ & 370.50 \end{aligned}$$

Big Cat Rescue Corp.

(CONTINUED)
07/31/2020

ACCOUNT NO:

Big Cat Rescue vs.
Big Cat Rescue Entertainment Group, Inc., et al;
USDC WD Oklahoma; Case #5:13-FJ-1.

07/17/2020 DMB Prepare initial Certificate of Service regarding service of emergency contempt application and Court's Order on GWDG and Jeff Lowe.

$$0.10 \times 110 = 11$$

HLH Review draft of certificate of compliance with court's order regarding service of show cause hearing notice and application, and review show cause order's requirements (3);

$$4.20 \cdot 3 \times 285 = 85.50$$

07/21/2020 HLH Prepare for contempt hearing (2.5); prepare preliminary exhibits for contempt hearing (.8);

(cont., below)

Big Cat Rescue Corp.

(CONTINUED)
07/31/2020

ACCOUNT NO:

Big Cat Rescue vs.
 Big Cat Rescue Entertainment Group, Inc., et al;
 USDC WD Oklahoma; Case #5:13-FJ-1.

		HOURS
		<i>-8.40 3.3 x 285 = 940.50</i>
07/22/2020	DMB Initial draft of proposed Order regarding Motion to Strike and Reset Show Cause Hearing.	<i>0.10 x 110 = 11</i>
	DMB Draft initial Motion to File Exhibit Under Seal to BCR and Party in Interest's Motion to Strike; draft proposed Order granting same.	<i>0.50 x 110 = 55</i>
HLH	Prepare exhibits for show cause hearing, update research for show cause hearing, and revise hearing notes (2.6);	<i>2.6 x 285 = 741.00</i>
	prepare application to strike and continue show cause hearing based on	

Big Cat Rescue Corp.

(CONTINUED)
07/31/2020

ACCOUNT NO:

Big Cat Rescue vs.
Big Cat Rescue Entertainment Group, Inc., et al;
USDC WD Oklahoma; Case #5:13-FJ-1.

representations of opposing counsel, and revise same
(1.4); receive declaration of purported medical professional
from opposing counsel regarding matter to be filed under
seal, and review (.2); draft, and revise, proposed order for
continuance of show cause hearing (.5); work on issue
related to filing under seal, and revise application for same
and prepare for filing (.4); /

HOURS

$$\begin{array}{r} 2.5 \times 285 = 712.50 \\ -7.40 \\ \hline 7.40 \end{array}$$

07/23/2020

HLH Prepare for hearing if not stricken (1.5);

$$\begin{array}{r} 1.5 \times 285 = 427.50 \\ -2.90 \\ \hline 2.90 \end{array}$$

Big Cat Rescue Corp.
12802 Easy Street
Tampa, FL 33625

Invoice Date: August 31, 2020
Invoice No.
Account No.

RE: Big Cat Rescue vs.
Big Cat Rescue Entertainment Group, Inc., et al;
USDC WD Oklahoma; Case #5:13-FJ-1.

08/05/2020 HLH

review research for the show cause hearing (1.8);
prepare witness outline (1.7);

7.30

$3.5 \times 28.5 =$
 $\$ 997.50$

08/06/2020 HLH

; final
preparation for hearing on contempt motion and review
exhibits (.7); receive and review entry of appearance of
new counsel, D. Card, attend and participate in hearing on
motion for contempt of June 1, 2020 Order, including
conference with new counsel, D. Card, and receive and

August 2020

Big Cat Rescue Corp.

(CONTINUED)
08/31/2020

ACCOUNT NO:

Big Cat Rescue vs.
 Big Cat Rescue Entertainment Group, Inc., et al;
 USDC WD Oklahoma; Case #5:13-FJ-1.

		HOURS
	review Declaration of W. Mosely filed moments before hearing (3.3);	6.30
		<i>4.0 x 285 = 1,140</i>
08/09/2020	HLH Initial draft of proposed indemnity agreement for J. Lowe to cover uninsured period from June 18 (1.3); receive and respond to email from GWDG and Lowe counsel D. Card concerning follow up from contempt hearing and addressing issues identified by Court (.5); draft	2 <i>1.5 x 285 = 427.50</i> -2.60
08/10/2020	HLH Revise indemnity agreement for J. Lowe to cover uninsured period from June 18, and confer with B. Dolatabadi regarding individual indemnitor issues (.8);	4.80 <i>.8 x 285 = 228</i>

Big Cat Rescue Corp.

(CONTINUED)
08/31/2020

ACCOUNT NO:

Big Cat Rescue vs.
Big Cat Rescue Entertainment Group, Inc., et al;
USDC WD Oklahoma; Case #5:13-FJ-1.

HOURS

- HLH Follow up with D. Card and W. Mosley regarding proposal to address problems and deficiencies in policies effective August 5, 2020 with extended personal indemnity of J. Lowe (.5); revise personal indemnification agreement to address deficiencies in policies effective August 5, 2020 (1.5).

2.00 $\times 285 = 570.00$

08/13/2020 HLH

, review revisions proposed by opposing counsel to personal indemnification agreement (.5):

); communicate with D. Card that revisions to personal indemnification agreement, including extension to cover period through Surrender Date, appear acceptable and he will check in with co-counsel (2); |

, 4 $\times 285 =$
171

Big Cat Rescue Corp.

(CONTINUED)

08/31/2020

ACCOUNT NO:

Big Cat Rescue vs.
 Big Cat Rescue Entertainment Group, Inc., et al;
 USDC WD Oklahoma; Case #5:13-FJ-1.

HOURS

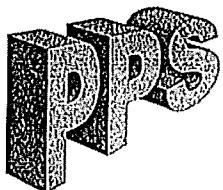
08/14/2020 HLH

revise personal indemnification
 agreement and prepare execution copy with annex (.5);
 provide personal indemnification agreement to opposing
 counsel for execution (.3); review update to court filed by
 D. Card on indemnification issue (.1).

*4.20 .9 x 285 =
 256.50*

Photocopies	2.30
Postage	1.30
TOTAL EXPENSES THROUGH 08/31/2020	<u>3.60</u>

08/28/2020	Check to Klingenberg & Associates, P.C.\Professional Services re: August 2020 Billing	942.80
	TOTAL ADVANCES	<u>942.80</u>



*Premier Professional Services, Inc.
6600 N. Meridian Ave #210
Oklahoma City, OK 73116
1-405-753-4933 (P)
1-405-753-4944 (F)
Federal ID # 73-1619843*

July 17, 2020

Service on: Greater Wynnewood Development Group, LLC & Jeffrey Lee Lowe

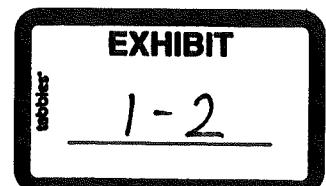
Case # CIV-2016-155-SLP

Service of Process:

<i>2 RUSH Serves</i>	<i>\$ 180.00</i>
<i>2 Hours Travel Time</i>	<i>80.00</i>
<i>Mileage</i>	<i>78.00</i>
<i>TOTAL DUE</i>	<i>\$ 338.00</i>

*Phillips Murrah, P.C.
Corporate Tower 13th Floor
101 N. Robinson
Oklahoma City, OK 73102
405-235-4100*

Thank you for using Premier Professional Services, Inc.



Klingenberg & Associates, P.C.
 330 N.W. 13th Street
 Oklahoma City, OK 73103
 (405) 236-1985

Big Cat Rescue 2
 c/o Heather L. Hintz, Esq.
 Corporate Tower, Thirteenth Floor
 101 North Robinson
 Oklahoma City, OK 73102

STATEMENT
 August 24, 2020

	Hours	Amount
8/3/2020 GRC Telephone call from Heather Hintz regarding upcoming hearing.	0.50	NO CHARGE
8/5/2020 GRC Telephone call from Heather Hintz regarding potential testimony; Direct TIA to pull records.	0.30	85.50
GRG Receive and review documents from Heather Hintz; Review account listing; Email to Heather Hintz regarding substance of hearing and expected testimony.	0.50	142.50
8/6/2020 GRC Prepare for Hearing. GRG Attend Hearing.	0.50 2.00	142.50 570.00
For professional services rendered	<hr/> 3.80	<hr/> \$940.50

Additional Charges :

8/6/2020 Mileage - To Federal Courthouse	\$2.30
Total costs	<hr/> \$2.30
Total amount of this bill	<hr/> \$942.80
Balance due	<hr/> \$942.80

For your convenience we accept VISA, MASTERCARD, DISCOVER, or AMEX.

Thank You!

EXHIBIT

1-3